

REMARKS

Claims 4-9, 11-23, 27-36 are pending in the present application.

At the outset, Applicants wish to thank Examiner Marvich for the indication that Claims 6, 7, 9, 22-23, 27-29, and 31 are allowable. In addition, Applicants note that the Examiner has indicated that Claims 12, 14-16, 20, and 21 are only rejected under 35 U.S.C. §112, second paragraph, but are otherwise free of the art of record. Consistent therewith, Applicants have amended the claims to secure claims drawn to that which the Examiner has recognized as being free from the art of record.

The rejection of Claims 1-5, 8, 10, 11, 13, 17-19, 24-26, and 30 under 35 U.S.C. §102(e) over Spaulding set forth in the Office Action of June 30, 2003 is obviated by amendment.

Applicants note that the rejected claims have been amended as follows: Claims 1-3, 10, and 24-26 have been canceled; Claims 4-5 and 8 now depend from allowable Claim 6; Claims 11, 13, and 17-19 now depend from allowable Claim 20; and Claim 30 now depends from allowable Claim 29.

Applicants make no further statement regarding the propriety of the rejection over Spaulding and in no way acquiesce to the same. However, Applicants note that the presently pending claims are free from the disclosure of Spaulding as has been recognized by the Examiner.

Applicants request withdrawal of this ground of rejection.

The rejection of Claims 2 and 11-21 under 35 U.S.C. §112, second paragraph, set

forth in the Office Action of June 30, 2003, is traversed for the reasons enunciated in the Amendment and Request for Reconsideration originally filed on September 30, 2003 and entered in accordance with the RCE filed on December 1, 2003. For the Examiner's convenience, the traversal argument is restated below.

This ground of rejection is predicated by the Examiner's inability to interpret how closely related the derived cells, tissues or organs are to the original animals and what procedures were used to derive these cells, tissues or organs, based on the language of the previously pending claims. In order to alleviate this alleged indefiniteness, Applicants have amended Claim 2 to specify that: (a) the cell incorporated type three-dimensionally reconstructed tissue is tissue/organ engineered and (b) the cells, tissues or organs, are derived from the same animal or a different animal from which the fertilized ovum is obtained.

Regarding point (a), Applicants note that support for tissue/organ engineering is provided by page 10, line 22 to page 11, line 16 and page 14, line 20 to page 24, line 11, which describe several suitable methods that are embraced by this classification. Accordingly, with the present specification in hand, the skilled artisan would recognize that the methods describe in the above-referenced sections embrace tissue/organ engineering. Moreover, the skilled artisan would readily appreciate the scope of this term as used herein.

With respect to point (b), Applicants note that the specification clearly states that the source of the three-dimensionally reconstructed tissue may be from a homogeneous or heterogeneous source. The Examiner is directed to the original specification at page 9, line 22 to page 10, line 16, reproduced (as amended) below:

The cells to be incorporated in the cell incorporated type three-dimensionally reconstructed tissue are cells derived from an animal that is homogeneous or heterogeneous to the fertilized ovum as is described in the fourth aspect of the invention.

Further, the cells may be primary cultured cells, strained cells or cells

transfected with an exogenous gene(s). Further, the cells may be one kind or two or more kinds.

In particular, in the case of preparing the cell incorporated type three-dimensionally reconstructed tissue as an implantation model of the fertilized ovum into an endometrium, the cells to be incorporated in the cell incorporated type three-dimensionally reconstructed tissue are preferably cells derived from an endometrium, particularly endometrial epithelial cells and stromal cells as is described in the fifth aspect of the invention.

Similarly, as the cells to be incorporated in the cell incorporated type three-dimensionally reconstructed tissue, cells derived from an ovary or cells derived from a uterine tube may be used to mimic an in vivo environment of about a life cycle of the ovum to be cultured.

In view of the foregoing, Applicants submit that Claim 2, and Claims 11-21 by dependency, are definite within the meaning of 35 U.S.C. §112, second paragraph.

Applicants respectfully request withdrawal of this ground of rejection.

Applicants submit that the present application is now in condition for allowance.

Early notification of such action is earnestly solicited.

Respectfully submitted,

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